

# EXHIBIT 9

Rough Transcript of Bailey & Robey Depo.txt

1

1                   ROUGH DRAFT - UNEDITED TRANSCRIPT  
THE VIDEOGRAPHER: GOOD MORNING.

2       THIS IS THE VIDEOTAPE DEPOSITION OF VICKY ROBEY  
3       TAKEN BY THE DEFENDANT PARTY IN THE MATTER OF IN  
4       RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESAL  
5       PRICE LITIGATION MDL NUMBER 1456, CIVIL ACTION  
6       NUMBER 01-C V-12257-P B S BEFORE THE UNITED  
7       STATES DISTRICT COURT FOR THE DISTRICT OF  
8       MASSACHUSETTS. THE DATE IS MARCH 20, 2007 AND  
9       THIS DEPOSITION IS BEING HELD AT HOGAN AND  
10      HARTSON, 111 SOUTH CALVERT STREET IN BALTIMORE,  
11      MARYLAND. THE TIME ON THE MONITOR IS 9:20 A.M.  
12      MY NAME IS MICHAEL HUNLERTON AND I AM THE  
13      CERTIFIED VIDEOGRAPHER ASSOCIATED WITH THE FIRM  
14      OF HENDERSON LEGAL SERVICES LOCATED AT 1015  
15      FIFTEENTH STREET, NORTHWEST IN WASHINGTON, D.C.  
16      THE COURT REPORTER IS CAROL ROBINSON ASSOCIATED  
17      WITH THE SAME FIRM. WILL COUNSEL ON THE  
18      TELEPHONE PLEASE INTRODUCE THEMSELVES FOR THE  
19      RECORD?

20                   MR. HECK: THIS IS JARED HECK. I  
21      REPRESENT THE DEFENDANT ROXANNE LABORATORIES,  
22      INCORPORATED AND SEVERAL INDEPENDENT BOEHRINGER

2

1                   ROUGH DRAFT - UNEDITED TRANSCRIPT  
ENTITIES NAMED AS DEFENDANTS IN CASE NUMBER  
2      07-01248.

3  
4                   MS. LIFESO: THIS IS CATHLEEN LIFESO  
5      FROM DAVIS POLK AND WARDWELL REPRESENTING

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2 EXTENT THAT IT CALLS FOR PRIVILEGED  
3 COMMUNICATION.

4 Q I DON'T WANT YOU TO TALK ABOUT  
5 CONVERSATIONS WITH YOUR LAWYERS BUT HOW DID YOU  
6 COME TO THE UNDERSTANDING THAT IF THERE IS  
7 LITIGATION, ON GOING AND YOU HAVE DOCUMENTS  
8 RELATING TO THAT LITIGATION THAT ONE SHOULD  
9 PRESERVE THOSE DOCUMENTS?

10 MS. THOMAS: OBJECTION. <!0>

11 Q IF YOU REMEMBER.

12 A I MEAN, THASES JUST COMMON SENSE.  
13 YOU DON'T WANT TO THROW AWAY THINGS.

14 Q ANYTHING OTHER THAN COMMON SENSE?

15 A PARDON ME.

16 Q ANYTHING OTHER THAN COMMON SENSE?

17 A NO.

18 Q NO? JUST SELF-APPARENT? EVERYBODY  
19 SHOULD KNOW?

20 MS. THOMAS: OBJECTION.

21 Q I APOLOGIZE. LET ME MOVE ON. I'M  
22 ASKING YOU ABOUT A MEMO YOU KNOW NOTHING ABOUT

♀

57

1 ROUGH DRAFT - UNEDITED TRANSCRIPT  
2 AND I KNOW THAT'S HARD TO DO. I'M AFRAID THIS  
3 ONE MAYBE SIMILAR BUT I DO HAVE TO FIND OUT IF  
4 YOU HAD ANY INVOLVEMENT OTHER THAN JUST RECEIVING  
5 IT, MS. ROBey. THERE IS A NOVEMBER 18, 2003 MEM  
6 ROW, FOR THE RECORD, IT IS DOCUMENTS 0003 THROUGH  
7 0004. IT IS FROM AGAIN GREGORY CAR SON.  
8 DIRECTED THIS TIME NOT ONLY TO THE FISCAL  
INTERMEDIARIES AND OLD CARRIERS BUT TO ALL

9                   Rough Transcript of Bailey & Robey Depo.txt  
10           MILLION DOLLARS.

11                   MEDICAL EQUIPMENT REGIONAL CARRIERS  
12           AND THIS ALSO HAS A SIMILAR SUBJECT. IT IS  
13           COORDINATION OF RESPONSES TO SUBPOENA 1\*7S AND  
14           OTHER REQUESTS FROM OUTSIDE ENTITIES REGARDING T  
15           A P PHARMACEUTICAL PRODUCTS, INC. AND L O P R O  
16           N, PART I-I, RESERVATION OF DOCUMENTS AND CONTACT  
17           IDENTIFICATION. AS A PRELIMINARY MATTER, WERE  
18           YOU ALSO NOT INVOLVED?

19           A       CORRECT.

20           Q       IN DRAFTING THIS ONE?

21           A       CORRECT.

22           Q       BUT YOU RECEIVED IT?

                  A       YES.

58

1                   ROUGH DRAFT - UNEDITED TRANSCRIPT  
2           Q       IS IT FAIR TO SAY THIS DOCUMENT DOES  
3           DIRECT THE ADDRESSEES TO PRESERVE DOCUMENTS?

4           A       YES.

5           Q       AND IT INDICATES, AT LEAST AS OF  
6           NOVEMBER 18, 2003, THAT THE RECIPIENTS OF THE  
7           MEMORANDUM SHOULD PRESERVE DOCUMENTS THAT CONCERN  
8           T A P, L O P R O N, S O L A D E X, DRUG COMPANIES  
9           OTHER THAN T A P OR ANY OTHER DRUG REIMBURSED BY  
10          MEDICARE.?

11                   MS. THOMAS: OBJECTION.

12          Q       DID YOU HAVE ANY DOCUMENTS THAT YOU  
13          PRESERVED IN RESPONSE TO THIS MEMORANDUM?

14          A       I MYSELF OR THE AGENCY?

15          Q       THAT IS A SILLY QUESTION. YOU ARE  
16          FROT A F I CARRIER OR A D M E REGION AM CARRIER,  
                ARE YOU?

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17 A NO.  
18 Q SO, YOU WOULDN'T PRESERVE ANYTHING IN  
19 RESPONSE TO THIS. I TAKE IT?  
20 A (SHAKING HEAD INDICATING NO).  
21 Q DID YOU HAVE ANY INVOLVEMENT WITH  
22 THIS OTHER THAN RECEIVING IT AND PUTTING IN

59

ROUGH DRAFT - UNEDITED TRANSCRIPT  
1 YOUR FILE?  
2 A NO.  
3 Q IN WHAT CAPACITY DID YOU RECEIVE  
4 THIS? WHY DID IT COME TO YOU?  
5 A I AM HRAO\*EUSED AS C C ON THE SECOND  
6 PAGE.  
7 Q DO YOU HAVE ANY IDEA WHY YOU WOULD  
8 YOU BE A C C TO THIS MEMORY TO THE CARRIER ON THE  
9 F IS?  
10 A BECAUSE I'M THE AGENCIES RECORDINGS  
11 OFFICER.  
12 Q SO, YOU WOULD KEEP A RECORD OF  
13 DIRECTIONS TO THESE OUTSIDE ENTITIES TO PRESERVE  
14 DOCUMENTS?  
15 A YES.  
16 Q TO THE BEST OF YOUR KNOWLEDGE, DID  
17 THE RESIP YENTD OF THIS MEMO COMPLY WITH ITS  
18 INSTRUCTIONS?  
19 MS. THOMAS: OBJECTION.  
20 THE WITNESS: I HAVE NO WAY OF  
21 KNOWING.  
22 BY MR. COOK:

60

Rough Transcript of Bailey & Robey Depo.txt

1           Q       ROUGH DRAFT - UNEDITED TRANSCRIPT  
              YOU HAVEN'T HEARD THAT NOBODY DID NOT  
2   COMPLY?  
3           A       CORRECT.  
4           Q       A DOUBLE NEGATIVE THERE.  THE NEXT  
5   MEMO IS BATES NUMBERED 0005 THROUGH 0007.  FOR  
6   THE RECORD, I'LL DESCRIBE IT.  IT IS DATED  
7   FEBRUARY 19, 2004.  IT IS ADDRESSED TO ALL  
8   CENTER AND OFFICE DIRECTORS AND REGIONAL STRAIR  
9   ADMINISTRATORS.  IT IS FROM J A C Q U E L Y N,  
10   WHITE, WHO APPEARS TO BE THE, OR PURPORTS TO BE  
11   THE DIRECTOR, OFFICE OF STRATEGIC OPERATIONS AND  
12   REGULATORY AFFAIRS.  THE SUBJECT IS DOCUMENT  
13   PRESERVATION AND PRODUCTION, LIEU PRONE MARKETING  
14   AND SALES PRACTICE LITIGATION AND PHARMACEUTICAL  
15   INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION.  IT  
16   HAS A PORTION OF THE SECOND PAGE REDACTED.  <!0>  
17   MS. ROBEY, DO YOU RECOGNIZE BATES NUMBER, PAGES  
18   BATES NUMBERED 5 THROUGH 7?  
19          A       YES.  
20          Q       WHAT IS IT?  
21          A       IT'S A NOTICE THAT WAS SENT OUT TO  
22   CMS CENTERS AND OFFICES ASKING THEM TO IDENTIFY A

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61

1                       ROUGH DRAFT - UNEDITED TRANSCRIPT  
2   PERSON WHO IS GOING TO COORDINATE THE DISCOVER  
3   REQUEST.  
4           Q       OTHER THAN RECEIVING THIS MEMO,  
5   WERE YOU INVOLVED AT ALL IN THE PREPARATION OF  
6   THIS MEMO?  
7           A       NO, I WAS NOT.  
8           Q       PRIOR TO RECEIVING THIS MEMO ON

Rough Transcript of Bailey & Robey Depo.txt

8 FEBRUARY 19, 2004, ARE YOU AWARE OF ANY STEPS  
9 THAT WERE TAKEN TO PRESERVE DOCUMENTS AS  
10 DESCRIBED IN THIS MEMORANDUM?

11 A NO.

12 MS. THOMAS: OBJECTION.

13 Q SORRY. WE SPOKE OVER EACH OTHER.  
14 WAS THAT NO?

15 A NO.

16 Q THANK YOU. AFTER RECEIVING THIS MEMO  
17 IN FEBRUARY 2004, WHAT ROLE DID YOU HAVE IN THE  
18 ACT IFERTDS DESCRIBED IN THIS MEMORANDUM  
19 (ABILITYIVITIES)?

20 MS. MARTINEZ: OBJECTION TO FORM.

21 <!0>

22 Q IT WAS POORLY PHRASED. I'LL TRY IT

62

ROUGH DRAFT - UNEDITED TRANSCRIPT  
1 AGAIN. MS. ROBEY, WERE YOU INVOLVED AT ALL  
2 ACTIVELY IN THE PRESERVATION OF RECORDS AS  
3 DIRECTED IN THIS MEMORANDUM?

4 A NO BECAUSE I DID NOT KEEP THESE  
5 RECORDS.

6 Q AND DID YOU YOU GATHER ANY DOCUMENTS  
7 RESPONSIVE TO THIS PARTICULAR REQUEST?

8 A NO.

9 MS. MARTINEZ: I JUST WANT STOB CLEAR  
10 FOR THE RECORD THESE QUESTIONS YOU ARE ADDRESSING  
11 TO VICKY ROBEY TO VICKY ROBEY, NOT VICKY ROBEY AT  
12 C MS, FOR EXAMPLE, WHEN YOU ARE ASKING, DID  
13 YOURSELF DISBEAR ANY DOCUMENTS, YOU ARE OBVIOUSLY  
14 ASKING MS. ROBEY, NOT FOR HER TO ANSWER ON BEHALF

15 Rough Transcript of Bailey & Robey Depo.txt  
OF ALL O CMS WITH RESPECT TO THIS.

16 Q WHEN I AM ASKING DID YOU GORE  
17 DOCUMENTINGS, I'M NOT ASKING CMS TO TESTIFY ABOUT  
18 WHAT YOU AND VICKY ROBEY TO O PRESERVE.

19 MS. MARTINEZ: SINCE THIS IS A 30 B 6  
20 DEPO, I JUST WANT TO BE CLEAR ON THE RECORD <!0>  
21 THAT WAS NOT THE ANSWER ON BEHALF OF CMS.

22 Q THAT QUESTION AND ANSWER, YOU WERE

63

1 ROUGH DRAFT - UNEDITED TRANSCRIPT  
TESTIFYING AS VICKY ROBEY, NOT AS THE DESIGNEE  
2 OF THE #- 0 B 6. I SHOULD HAVE MADE THAT CLOAR.  
3 BACK INTO CHARACTER, THOUGH -- DO WE HAVE A COPY  
4 OF THE COMPLAINT? GAB GAB THE ORIGINAL?

5 MR. COOK: YES. <!0>

6 BY MR. COOK:

7 Q I'D LIKE TO SHOW YOU REAL QUICKLY,  
8 WE'LL SET THOSE ASIDE AND COME BACK IT, I'LL MARK  
9 IT AS EXHIBIT ABBOTT 70.

10 ( EXHIBIT  
11 NO. ,  
12 , W

13 MARKED FOR IDENTIFICATION.)

14 MS. MARTINEZ: COULD IT SEE IT BEFORE  
15 YOU --

16 MR. COOK: OH, ABSOLUTELY. IT IS A  
17 COPY OF -- THAT ONE IS THICKER BECAUSE IT IS TWO  
18 OF THEM. IT IS A COPY OF THE ORIGINAL COMPLAINT  
19 TIMED BY VEN-A-CARE. IT INDICATES ON THE COVER  
20 SHEET THAT VEN-A-CARE PUT ON THE DOCUMENT  
21 ORIGINALLAL COMPLAINT FILED ON ABOUT JUNE 2 #-,  
22 1996. I BELIEVE THAT'S INCORRECT FOR THE RECORD.



Rough Transcript of Bailey & Robey Depo.txt

64

ROUGH DRAFT - UNEDITED TRANSCRIPT  
1 THAT IT IS 1995 IN AS MUCH AS THE CIVIL CASE

2 NUMBER IS A '95 CASE NUMBER.

3 MS. MARTINEZ: DO YOU HAVE AN EXTRA  
4 COPY THAT COUNSEL FOR VEN-A-CARE COULD USE?

5 MR. COOK: ABSOLUTELY.

6 MS. THOMAS: THANK YOU.

7 MR. COOK: DOES ANYBODY ELSE NEED A  
8 COPY? I WOULD LOVE TO GET RID OF THEM.

9 Q IF YOU COULD JUST TAKE A QUICK  
10 MOMENT, I RECOGNIZE THAT IS A LENGTHY DOCUMENT  
11 BUT TAKE A LOOK AT IT AND TELL ME WHETHER YOU'VE  
12 EVER SEEN THAT DOCUMENT BEFORE?

13 MS. THOMAS: YOU MIGHT WANT TO  
14 CLARIFY WHETHER SHE HAS EVER SEEN THIS DOCUMENT,  
15 THAT MAY OR MAY NOT HAVE HAD THESE REDACTIONS.

16 MR. COOK: OKAY.

17 THE WITNESS: NO. I'VE NEVER SEEN  
18 THIS BEFORE.

19 Q EITHER WITH OR WITHOUT THE  
20 REDACTIONS?

21 A NO.

22 Q AND JUST FOR THE RECORD, ON PAGE 69,

65

ROUGH DRAFT - UNEDITED TRANSCRIPT  
1 IT INDICATES THAT IT WAS SERVED ON JUNE 23 OF  
2 1995. TO THE BEST OF YOUR KNOWLEDGE, MS. ROBEY,  
3 DID CMS INSTITUTE ANY DOCUMENT PRESERVATION  
4 INSTRUCTION IN CONNECTION WITH THIS COMPLAINT  
5 THAT WAS FILED ON JUNE 23, 1995?

6                   Rough Transcript of Bailey & Robey Depo.txt  
7           A       NOT THAT I'M AWARE OF.

8           Q       GOING BACK TO THE FEBRUARY 19, 2004  
9       MEMORANDUM, INCLUDED WITHIN EXHIBIT ABBOTT 69,  
10      ARE YOU AWARE OF ANY SUBSEQUENT MEMORANDA THAT  
11      WERE ISSUED RELATING TO THE LITIGATION DESCRIBED  
12      IN THIS FEBRUARY 19, 2004 MEMORANDUM REGARDING  
13      PRESERVATION OF DOCUMENTS?

14          A       THERE WAS ONE AFTER THIS IN JANUARY  
15      OF 2007, I BELIEVE.

16          Q       AND WHAT DID THAT ONE -- AGAIN, IS  
17      THAT A PRIVILEGED COMMUNICATION?

18                   MS. MARTINEZ: OBJECTION TO THE  
19      EXTENT IT CALLS FOR PRIVILEGED COMMUNICATION.  
20      YOU MAY BE ABLE TO ASK HER IF SHE HAS INFORMATION  
21      FROM ANYBODY WHO IS A NONLAWYER REGARDING THAT.

22          Q       JUST STICKING WITH THE MEMORANDUM AND  
23      THEN MOVING ON TO INFORMATION FROM A NONLAWYER,

66

1                   ROUGH DRAFT - UNEDITED TRANSCRIPT  
2      DO YOU REMEMBER FROM WHOM THE JANUARY 2007  
3      MEMORANDUM WAS FROM?

4          A       IT WAS FROM OUR PROGRAM AREA -- I'M  
5      TRYING TO REMEMBER THE LADY'S NAME, M A R Y B E T  
6      H, JASON, I THINK. I'M NOT SURE ABOUT THE LAST  
7      NAME.

8          Q       IS SHE AN ATTORNEY?

9          A       NO.

10         Q       WITHOUT DESCRIBING THE CONTENTS OF THE  
11      MEMORANDUM, CAN YOU DESCRIBE GENERALLY WHAT THE  
12      NATURE OF THE DOCUMENT WAS?

13                   MS. THOMAS: OBJECTION.

14                   MS. MARTINEZ: IF YOU WOULD FOCUS  
15                   Page 50

Rough Transcript of Bailey & Robey Depo.txt

14 YOUR QUESTION WITH RESPECT, IF SHE HAS ANY  
15 INFORMATION FROM A NONLAWYER REGARDING WHETHER OR  
16 NOT THAT DOCUMENT INSTRUCTED ANYONE TO PRESERVE,  
17 YOU MIGHT BE ABLE TO GET AN ANSWER THAT IS  
18 HELPFUL.

19 Q DO YOU HAVE ANY INFORMATION FROM A  
20 PHENOMENON LAWYER THAT WOULD INDICATE WHETHER  
21 THAT DOCUMENT WAS INTENDED TO PRESERVE DOCUMENTS  
22 RELATING TO LITIGATION?

67

1 A ROUGH DRAFT - UNEDITED TRANSCRIPT  
YES, I DO.

2 Q FROM WHOM DO YOU HAVE THAT  
3 INFORMATION?

4 A IT IS FROM M A R Y B E T H, I THINK  
5 THE LAST NAME IS JASON.

6 Q SHE WAS THE AUTHOR OF THE MEMORANDUM?

7 A I BELIEVE SO, YES.

8 Q IS THIS A CONVERSATION YOU HAD WITH  
9 MS. JASON?

10 A A CONVERSATION AS WELL AS A COPY OF  
11 THE CORRESPONDENCE.

12 Q DO YOU REMEMBER WHEN AND WHERE THIS  
13 CONVERSATION TOOK PLACE, APPROXIMATELY?

14 A I TALKED WITH HER YESTERDAY AS WELL  
15 AS IN THE PAST WHERE SHE CONTACTED ME REGARDING  
16 THE AGENCY'S POLICY ON RETENTION.

17 Q AS BEST YOU CAN RECALL, WHAT DID YOU  
18 SAY TO MS. JASON, WHAT DID SHE SAY TO YOU IN THE  
19 EARLIER CONVERSATIONS?

20 A I CAN'T REMEMBER.



Rough Transcript of Bailey & Robey Depo.txt

20 Q PRIOR TO THAT MEMORANDUM BEING  
21 DISTRIBUTED, WITHOUT VOLUNTARILYING THE CONTENTS  
22 OF THAT (REVEALING) OF THAT MEMORANDUM, HAD THERE

72

1 ROUGH DRAFT - UNEDITED TRANSCRIPT  
2 EVER BEEN ANY PRIOR COMMUNICATIONS BETWEEN CMS  
3 RELATING TO DOCUMENT PRESERVATIONS IN CONNECTION  
4 TO THAT CASE?

5 MS. MARTINEZ: OBJECTION TO THE  
6 EXTENT THAT SHE KNOWS.

7 BY THE WITNESS:

8 Q SURE. TO THE EXTENT IS THAT YOU ARE  
9 AWARE OF AS THE RECORDS OFFICER FOR CMS, HAD  
10 THERE EVER BEEN ANY PRIOR RECORDS PRESERVATION  
11 DIRECTIONS ISSUED RELATING TO THAT CASE THAT WAS  
12 THE SUBJECT OF M A R Y B E T H'S MEMORANDUM?

13 A YES.

14 Q WHEN WAS THAT?

15 A EARLY 2003, LATE 2004.

16 Q SO, IT IS YOUR UNDERSTANDING THAT  
17 THOSE TWO CASES WERE SOMEHOW CONNECTED?

18 A YES.

19 Q THE SAME CASE OR CONNECTED?

20 A I JUST ASSOCIATED IT BECAUSE OF  
21 INFORMATION THAT WAS PROVIDED IN THE SUBJECT  
22 LINE.

Q OKAY.

73

1 A ROUGH DRAFT - UNEDITED TRANSCRIPT  
2 I'M NOT AN EXPERT ON THAT.

Q AND I UNDERSTAND COMPLETELY. OTHER

3                   Rough Transcript of Bailey & Robey Depo.txt  
4       THAN THE 2003-2004 PRIOR PRESERVATION MEMO, AND  
5       THAT IS THE ONE WE HAVE HERE AT PAGES 5 THROUGH  
6       7, CORRECT -- YES, 5 THROUGH 7.

7                   A       YES.

8                   Q       OTHER THAN THAT FEBRUARY 19, 2004  
9       COMMUNICATION, HAD THERE EVER, BEFORE THAT, BEEN  
10      ANY PRESERVATION INSTRUCTIONS ISSUED IN  
11      CONNECTION WITH THAT CASE?

12                   MS. THOMAS: OBJECTION.

13                   THE WITNESS: NOT THAT I'M AWARE OF.

14                   THE VIDEOGRAPHER: THE TIME IS  
15      10:34 A.M. WE ARE GOING OFF THE RECORD WORKERS'  
16      COMPENSATION CONCLUDING TAPE NUMBER ONE IN THE  
17      DEPOSITION OF VICKY ROBEY IN THE MATTER OF IN RE  
18      RE PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE  
19      PRICE LITIGATION.

20                   (RECESS TAKEN.)

21                   CMS NOW IS THE TIME FOR ALL GOOD  
22      MEN.

23                   THE VIDEOGRAPHER: THE TIME IS

74

1                   ROUGH DRAFT - UNEDITED TRANSCRIPT  
2      10:48 A.M. WE ARE GOING BACK ON THE THE  
3      RECORDING STARTING TAPE NUMBER TWO IN THE  
4      DEPOSITION OF VICKY ROBEY IN THE MATTER OF IN RE  
5      PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE  
6      LITIGATION.

7                   Q       MS. ROBEY, I'D LIKE TO HAND YOU WHAT  
8      I HAVE MARKED AS EXHIBIT ABBOTT 71 AND ASK YOU TO  
9      TAKE A LOOK AT THAT. IT IS CAPTIONED ABBOTT  
10     LABORATORIES, INC. NOTICE OF 30 B 6 DEPOSITION OF  
11     PLAINTIFF, UNITED STATES OF AMERICA. DO YOU

Rough Transcript of Bailey & Robey Depo.txt

11 OWNER SENDS YOU A COMMUNICATION?  
12 A CORRECT, BECAUSE I'M NOT -- I AM NOT  
13 A PROGRAM AREA PERSON. THEY ARE THE EXPERTS, I'M  
14 NOT.  
15 Q HOW ARE THOSE COMMUNICATIONS MADE TO  
16 YOU?  
17 A VERBALLY, E-MAIL.  
18 Q DO YOU KEEP A RECORD OF THOSE  
19 COMMUNICATIONS?  
20 A THE E-MAILS, I WOULD. VERBAL  
21 COMMUNICATIONS, I DON'T.  
22 Q WONINGS YOU RECEIVE A VERBAL E-MAIL

‡

117

ROUGH DRAFT - UNEDITED TRANSCRIPT  
1 OR WRITTEN COMMUNICATION OF THIS SORT, WHAT DO  
2 YOU THEN DO?  
3 A I GO INTO MY DATABASE AND I MARK THAT  
4 THE RECORDINGS ARE FROZEN (RECORDS) BECAUSE THE  
5 WAY MY DATABASE IS SET UP, I HAVE TO ASSIGN A  
6 DISPOSAL DATE. SO, I MARK IT OUT LIKE TEN YEARS  
7 FROM THE DATE THAT THE DISPOSAL DATE ORIGINALLY  
8 WAS. THAT WAY, IN TEN YEARS, IF IT HAPPENS TO  
9 COME UP AND THE CASE IS STILL ACTIVE OR THE  
10 RECORDS ARE STILL FROZEN, THEN A NOTICE WOULD BE  
11 GENERATED AGAIN TO THE RECORD OWNER, TELLING THEM  
12 IT'S COME TIME OR BECAUSE OF THE FREEZE, CAN WE  
13 LIFT THE FREEZE OR DO WE -- CAN WE DISPOSE OF  
14 THEM.  
15 Q IN CONNECTION WITH THE (.  
16 CAN YOU HAND ME EXHIBIT 69? IN  
17 CONNECTION WITH THE FEBRUARY 19, 2004 RECORD HOLD

18 Rough Transcript of Bailey & Robey Depo.txt  
MEMORANDUM THAT WE LOOKED AT BEFORE AS PART OF  
19 EXHIBIT 69, THIS WAS MEMORANDUM FROM JACQUELYN  
20 WHITE, IF YOU'LL RECALL --  
21 A OKAY.  
22 Q DID YOU PLACE A HOLD ON ANY DOCUMENTS

118

1 ROUGH DRAFT - UNEDITED TRANSCRIPT  
IN THE CMS WAREHOUSE?  
2 A NO, I DID NOT.  
3 Q IN CONNECTION WITH THE JANUARY 2007  
4 MEMORANDUM ON THAT WAS ISSUED FOLLOWING YOUR  
5 DISCUSSION WITH M A R Y B E T H JASON, DID YOU  
6 PLACE A HOLD ON ANY DOCUMENTS IN THE CMS  
7 WAREHOUSE?  
8 A NO.  
9 MS. MARTINEZ: I JUST WANT TO  
10 CLARIFY, IF YOU ARE TRYING TO ASK WHETHER SHE  
11 RECALLS WHETHER ANY OWNER SENT HER ANY KIND OF  
12 NOTICE LIKE THAT, IS THAT WHAT YOU ARE ASKING OR  
13 WHETHER SHE PERSONALLY DID.  
14 Q I AM ASKING WHETHER THE RECORDS  
15 OFFICER PLACED A HOLD ON ANY DOCUMENTS?  
16 MS. MARTINEZ: THAT SHE RECALLS.  
17 THE WITNESS: IT WOULD BE HARD FOR ME  
18 TO DO THAT BECAUSE A LOT OF TIMES IN THE SUBJECT  
19 LINE THEY GIVE ME, THERE MAY NOT BE THE  
20 DESCRIPTION I NEED TO BE ABLE TO APPLY SOMETHING.  
21 Q I MAY NOT HAVE BEEN CLEAR. FOLLOWING  
22 THE SEPTEMBER 2004 MEMORANDUM IN EXHIBIT ABBOTT

119

1 ROUGH DRAFT - UNEDITED TRANSCRIPT  
69, THAT IS THE JACQUELYN WHITE MEMORANDUM ON  
Page 90



Rough Transcript of Bailey & Robey Depo.txt

2 FEBRUARY 19, 2004, DID YOU RECEIVE ANY  
3 INSTRUCTIONS FROM CMS EMPLOYEES TO PLACE HOLDS ON  
4 DOCUMENTS IN THE CMS WAREHOUSE?

5 A NO.

6 Q AND SO, IS THERE ANYBODY ELSE THAT  
7 WOULD HAVE INPUT OF RECORDS HOLD INTO THE CMS  
8 DATABASE THAT YOU DESCRIBED OTHER THAN YOU?

9 A I HAVE A PERSON WHO IS MY BACKUP BUT  
10 SHE ONLY GOES INTO THE SYSTEM TO GENERATE  
11 ACCESSION NUMBERS OR TO DO THE DISPOSAL PROCESS.

12 Q AND SO TO THE BEST OF YOUR KNOWLEDGE,  
13 WERE ANY DOCUMENTS IN THE CMS WAREHOUSE HELD AND  
14 PRESERVED FROM DESTRUCTION AS A RESULT OF THE  
15 FEBRUARY 19, 200 H MEMORANDUM FROM JACQUELYN  
16 WHITE?

17 MS. MARTINEZ: OBJECTION TO FORM.

18 MS. THOMAS: OBJECTION.

19 THE WITNESS: NOT THAT I'M AWARE OF.

20 Q WOULD YOU KNOW WHETHER DOCUMENTS WERE  
21 COLLECTED FROM THE CMS WAREHOUSE FOLLOWING THE  
22 FEBRUARY 19, 2004 MEMORANDUM FROM JACQUELYN

120

1 WHITE? ROUGH DRAFT - UNEDITED TRANSCRIPT

2 MS. MARTINEZ: OBJECTION TO FORM.

3 MS. THOMAS: OBJECTION.

4 THE WITNESS: WHEN BOXES ARE  
5 REQUESTED FROM THE WAREHOUSE, THEY DON'T GIVE ME  
6 THE REASON. THEY'RE THE RECORD OWNERS THEY NEED  
7 THE BOXES BACK TO BE ABLE TO ACCESS TEAR  
8 INFORMATION AND FILES. THEY DON'T GIVE ME A